

**COURT OF APPEALS  
DECISION  
DATED AND RELEASED**

September 19, 1996

**NOTICE**

A party may file with the Supreme Court a petition to review an adverse decision by the Court of Appeals. See § 808.10 and RULE 809.62, STATS.

This opinion is subject to further editing. If published, the official version will appear in the bound volume of the Official Reports.

**No. 96-1205-NM**

**STATE OF WISCONSIN**

**IN COURT OF APPEALS  
DISTRICT IV**

**In the Matter of the Guardianship  
of George K.: COUNTY OF LA CROSSE,**

**Petitioner-Respondent,**

**v.**

**GEORGE K.,**

**Respondent-Appellant.**

APPEAL from an order of the circuit court for La Crosse County:  
DENNIS G. MONTABON, Judge. *Affirmed.*

EICH, C.J.<sup>1</sup> Counsel for George K. filed a no merit report pursuant to RULE 809.32, STATS. George K. was informed of his right to file a response and elected not to respond. Upon our independent review of the record as mandated by *Anders v. California*, 386 U.S. 738, 744 (1967), we conclude there is no issue of arguable merit that could be raised on appeal.

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<sup>1</sup> This appeal is decided by one judge pursuant to § 752.31(2)(f), STATS.

The trial court granted La Crosse County's petition for protective placement under § 55.06, STATS., based on its findings that George K. has a primary need for residential care and custody, that he is incompetent, that as a result of his incapacity he is so totally incapable of providing for his own care or custody as to create a serious risk of harm to himself and that his disability is permanent or likely to be permanent. George K. has been living at the Lakeview Health Center since a 1993 court order under chapter 51, STATS., relating to his alcohol abuse. In June 1995, his commitment was extended for one year without objection. A psychologist testified that George K. suffers from chronic paranoid schizophrenia, alcohol dependence and hypertension. He has difficulty following treatment programs and often neglects his personal hygiene.

The impetus for the permanent guardianship and protective placement was the doctors' discovery of a tumor on George K.'s neck at the lymph node. Physicians performed a needle biopsy and found some abnormal cells. George K. refused further treatment, stating that he believes the doctors just "fouled up" or injected the abnormal cells into his neck. He states that he does not want to be cured even if the tumor is cancer because he wants to die to "take his rightful place in heaven." He believes he is a saint and that when he dies he will be the husband of the Virgin Mary because she told him so. The trial court accepted the testimony of an expert witness who testified that George K.'s schizophrenia causes him to operate under a systematic delusional system that interferes with his ability to make rational decisions based on self-interest.

The no merit report addresses the standard for determining incompetency, the sufficiency of the evidence to support the finding that George K. is incompetent, and the sufficiency of the evidence supporting the finding that George K. is incapable of providing for his own care so as to create a substantial risk of harm to himself. Our independent review of the record discloses no basis for appeal on these issues.

The trial court applied the correct standard when determining competency. It applied the standard set forth in § 880.01(4), STATS. Sections 880.01(7m) and 51.61(1)(g)4, STATS., do not apply because this case does not involve George K.'s refusal to take psychotropic medications.

The trial court's findings that George K. is incompetent and incapable of providing for his own care so as to create a substantial risk of harm to himself are supported by adequate evidence. The psychologist's testimony that George K.'s decision to refuse medical treatment is the result of a systematic delusional system rather than a reasoned choice supports these findings. George K.'s refusal of further medical treatment creates a substantial risk of harm to himself.

Our independent review of the record discloses no other potential issues for appeal. Therefore, we relieve Attorney Jeri Urbanski of further representing George K. in this matter and affirm the protective placement order.

*By the Court.* – Order affirmed.